

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35439

STATE OF IDAHO,)	2009 Unpublished Opinion No. 455
)	
Plaintiff-Respondent,)	Filed: May 7, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
KATHLEEN MARGARET ADKINS,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. Ronald E. Bush, District Judge.

Judgment of conviction and concurrent unified sentences of five years, with three years determinate, for two counts of forgery, affirmed; order denying I.C.R. 35 motion for reduction of sentences, affirmed.

Molly J. Huskey, State Appellate Public Defender; Heather M. Carlson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Nicole L. Schafer, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; PERRY, Judge;
and GUTIERREZ, Judge

PER CURIAM

Kathleen Margaret Adkins was charged with two counts of forgery, I.C. § 18-3601, and pursuant to a plea agreement, pled guilty to the charges and the state agreed not to file a persistent violator enhancement. The district court sentenced Adkins to concurrent unified terms of five years, with three years determinate. Adkins filed an Idaho Criminal Rule 35 motion for reduction of sentences, which the district court denied. Adkins appeals from her judgment of conviction and sentences and from the denial of her Rule 35 motion, contending that the district court abused its discretion by imposing excessive sentences and by denying her Rule 35 motion.

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d 1331, 1337 (1989). We will not conclude on review that the sentencing court abused its discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we consider the nature of the offense and the character of the offender, applying our well-established standards of review. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007).

A Rule 35 motion is a request for leniency which is addressed to the sound discretion of the sentencing court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by imposing Adkins' sentences and by denying her Rule 35 motion for reduction of sentences. Accordingly, Adkins' judgment of conviction and sentences are affirmed, as is the denial of her Rule 35 motion.